IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Crl.MC.No. 1204 of 2007()

CRA.128/2004 of SESSIONS COURT, KOTTAYAM
CC.234/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, KANJIRAPPALLY

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PETITIONER/ACCUSED:

ARUN S. NAIR,
S/O.SIVADASAN NAIR,
CHENNAKUNNEL HOUSE,
CHIRAKKADAVU VILLAGE, PONKUNNAM,
KOTTAYAM DISTRICT.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS/RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. T.K.SHAJI, S/O.KUMARAN,
THAKIDIYIL HOUSE, PADINJATTUMBHAGOM MURI,
CHRAKADAVU VILLAGE.

BY ADV. SRI.BRIJESH MOHAN
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/04/2007 ALONG WITH CRL.M.C.NO.1211 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.Nos.1204 and 1211 of 2007

Dated this the 13th day of April 2007

O R D E R

The petitioner has, according to me unnecessarily, come to this court with a prayer to accept composition of the offence under Section 138 of the Negotiable Instruments Act by the respondent/complainant.

2. The respective complainants had initiated prosecutions under Section 138 of the Negotiable Instruments Act against the petitioner. The verdicts of guilty, convictions and sentences have now become final. The petitioner was sentenced in both cases to undergo imprisonment till rising of court. He was further directed to pay compensation and in default to undergo imprisonment for specified periods. The petitioner submits and the respondent/complainant confirms that the entire amount of compensation has already been paid and discharged. The petitioner and the complainant, according to him, need only report this fact to the learned Magistrate; whereupon the learned Magistrate cannot proceed to execute the default

sentence. The doubts, if any, on this aspect have been clarified in Girish v. Muthoot Capital Service (P) Ltd. [2007(1) KLT 16].

3. These petitions are, in these circumstances, dismissed but with the observation that if the petitioner and the complainant appear before the learned Magistrate and confirm that the compensation amount has been paid by the petitioner and received by the learned Magistrate, there can be no question of execution of the default sentence prescribed.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007